
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

DAVID WEBB,

Plaintiff,

v.

TIMOTHY SCOTT, et al.,

Defendants.

**ORDER ADOPTING
REPORT AND RECOMMENDATION**

Case No. 1:11-CV-00128

District Judge Dee Benson

Before the court is the Report and Recommendation issued by United States Magistrate Judge Dustin B. Pead on October 10, 2014, recommending that this court deny Plaintiff's summary judgment motion, grant the Ogden City Defendants' summary judgment motion, and grant in part and deny in part the Weber County Defendants' summary judgment motion. Also before the court is Plaintiff's Motion to Appoint Counsel. (Dkt. No. 205.)

The parties were notified of their right to file objections to the Report and Recommendation within fourteen (14) days after receiving it. On October 23, 2014, Plaintiff filed an Objection to the Report and Recommendation. (Dkt. No. 183.) On October 27, 2014, the Ogden City Defendants filed their "Response to Plaintiff's Objections to Report and Recommendation." (Dkt. No. 182.) The Weber County Defendants filed their "Response to Plaintiff's Objections to Report and Recommendation" on November 6, 2014. (Dkt. No. 188.) On October 28, 2014, the Weber County Defendants filed their own "Objections to the Report and Recommendation Dated October 10, 2014." (Dkt. No. 184.) Finally, Plaintiff filed his

“Opposition to Ogden City & Weber County Defendants’ Response to Plaintiff’s Objections to R&R Dated 10 October 2014” on November 3, 2014. (Dkt. No. 187).

On December 22, 2014, the court held a status conference. At the status conference, the court indicated its willingness to appoint counsel for Plaintiff. The court appointed Steve Killpack, former Utah Federal Public Defender, to be Plaintiff’s attorney. The court ordered Plaintiff—through his appointed counsel—to file a new objection to the Magistrate’s Report and Recommendation, believing that this could provide clarity to the court.

Although Plaintiff initially accepted his appointed counsel, Mr. Killpack did not continue to represent the Plaintiff. Instead, the Plaintiff had attorneys at Sykes McAllister Law Offices, PLLC (“Sykes McAllister”) review his case. On February 20, 2015, that firm filed an objection to the Report and Recommendation on Plaintiff’s behalf. (Dkt. No. 199.) Defendants responded to Plaintiff’s objections on March 12, 2015. (Dkt. No. 213.)

One week after his new objection was filed, Plaintiff filed a *pro se* motion, contrary to the advice of Sykes McAllister. Consequently, on March 4, 2015, Sykes McAllister withdrew as counsel for Plaintiff. That same day, Plaintiff filed his motion to appoint counsel. Defendants responded to Plaintiff’s motion on March 9, 2015 (Dkt. No. 208) and Plaintiff filed a reply on March 13, 2015. (Dkt. No. 220.)

Having conducted a thorough review of all relevant materials, including all of the objections to the Report and Recommendation, the responses to those objections, the record that was before the magistrate judge, and the reasoning set forth in the magistrate judge’s Report and Recommendation, the Court agrees with the analysis and conclusion of the magistrate judge.

Accordingly, the Court ADOPTS the Report and Recommendation and issues the following Order:

The Plaintiff's motion for summary judgment (Dkt. No. 118) is DENIED.

The Ogden City Defendants' motion for summary judgment (Dkt. No. 130) on all of Plaintiff's claims is GRANTED.

Weber County Defendants West, Johnson, and Flatt's motion for summary judgment (Dkt. No. 161) on Plaintiff's illegal strip search claim is DENIED.

Weber County Defendants Thompson, West, Johnson, and Flatt's motion for summary judgment on Plaintiff's prolonged detention claim is DENIED.

Weber County Defendant Thompson's motion for summary judgment on Plaintiff's supervisory liability claim for Plaintiff's prolonged detention is DENIED.

The Weber County Defendants' motion for summary judgment (Dkt. No. 161) on all of Plaintiff's remaining claims is GRANTED.

The court also DENIES Plaintiff's motion to appoint counsel.

DATED this 18th day of March, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dee Benson", written over a horizontal line.

Judge Dee Benson
United States District Judge